

1970

c 457 Telephone Act

Ontario

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CHAPTER 457

The Telephone Act**1. In this Act,**Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Commission" means the Ontario Telephone Service Commission;
- (c) "commissioners" means the persons elected by the subscribers of a municipal telephone system for the control and management of the system;
- (d) "initiating municipality" means a municipality that has established a municipal telephone system under this Act or a predecessor of this Act;
- (e) "municipal telephone system" means a telephone system, other than a public utility, established by by-law of a municipality under a predecessor of this Act;
- (f) "plant" means the buildings, works, apparatus and equipment, including vehicles, used in the operation of a telephone system;
- (g) "rate" means any rental or charge for supplying telephone exchange service and all services associated therewith;
- (h) "regulations" means the regulations made under this Act;
- (i) "subscriber", in respect of a municipal telephone system, means a landowner who has signed a petition to the council of a municipality praying for the establishment or extension of a telephone system that is afterwards established or extended pursuant to the petition or upon whose property an annual rate is or may be levied and collected for the purpose of paying the cost of establishing and maintaining the system or the extension or any reconstruction, replacement or alteration of the system or any part thereof, and also means a person who, being a subscriber as defined above, has fully paid all annual rates in respect of the establishment of the system or of its extension and the cost of maintenance during the period for which debentures have been issued to pay the cost of the establishment or extension and who continues thereafter to take telephone service from the system on the basis of paying such charges therefor as are approved;

- (j) "toll" means any charge, other than a rate, for the transmission of telephone messages. R.S.O. 1960, c. 394, s. 1.

Telephone
Service
Commission

2.—(1) The body corporate known as the "Ontario Telephone Service Commission" is continued. R.S.O. 1960, c. 394, s. 2 (1), *amended*.

Membership

(2) The Commission shall consist of three or more members appointed by the Lieutenant Governor in Council.

Chairman
and vice-
chairman

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one of them as vice-chairman.

Remunera-
tion

(4) The members shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. R.S.O. 1960, c. 394, s. 2 (2-4).

Quorum

(5) Two members constitute a quorum. 1962-63, c. 139, s. 1.

When vice-
chairman
may act

3.—(1) In the absence of the chairman or in the case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and has all the powers of the chairman, including the power to complete any unfinished matter.

Presumption
where vice-
chairman
has acted

(2) Where the vice-chairman has acted in place of the chairman, it shall be presumed conclusively that he so acted in the absence or disability or vacancy in the office of the chairman. R.S.O. 1960, c. 394, s. 3.

Staff

4. The Lieutenant Governor in Council may appoint a secretary and such other officers, clerks and employees as may be necessary for the conduct of the affairs of the Commission. R.S.O. 1960, c. 394, s. 4.

Adminis-
tration costs

5. The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 394, s. 5.

Jurisdiction
of
Commission

6.—(1) The Commission has jurisdiction and power to hear and determine all applications made, proceedings instituted and matters brought before it under this Act and, for such purposes, to make such orders, rules and regulations, to give such directions, to issue such certificates and otherwise to do and perform all acts, matters, deeds and things as it considers necessary.

Powers of
investiga-
tion
R.S.O. 1970,
c. 379

(2) In the exercise of its powers under subsection 1, the Commission has all the powers that may be conferred upon a Commissioner under *The Public Inquiries Act*.

Witness
fees

(3) Every person summoned to attend before the Commission shall, in the discretion of the Commission, receive the like fees and

allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1960, c. 394, s. 6.

7. The chairman may authorize any one of the members of the Commission to report to the Commission upon any question or matter arising in connection with the business of the Commission and, when so authorized, such member has all the powers of the Commission for the purpose of taking evidence and acquiring information for the purposes of the report and, upon the report being made to the Commission, it may be adopted as the order of the Commission or otherwise dealt with as the Commission considers proper. R.S.O. 1960, c. 394, s. 7.

Reference
to a
member

8. All orders and other documents made or issued by the Commission are effective if signed by the chairman or vice-chairman. R.S.O. 1960, c. 394, s. 8.

Signing of
orders, etc.

9.—(1) The Commission shall sit at such times and places as the chairman from time to time designates and shall conduct its proceedings in such manner as seems to it most convenient for the speedy and effectual dispatch of its duties.

Sittings

(2) The sittings of the Commission may be either private or open to the public, but any complaint made to the Commission shall, upon the application of any party thereto, be heard publicly.

Idem

(3) Where the sittings of the Commission are appointed to be held in a municipality in which a court house is situate, the Commission and its members have in all respects the same rights as a judge of the Supreme Court in respect of the use of the court house, or any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice.

Use of
court house

(4) Where the sittings of the Commission are appointed to be held in a municipality in which there is a municipal hall but no court house, the municipality shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for the purpose. R.S.O. 1960, c. 394, s. 9.

Use of
town hall

10. The Commission may rehear any application and may review, amend or revoke its decisions, orders, directions, consents or approvals and may within its jurisdiction review, amend or revoke the decisions, orders, directions, rules or approvals made by the Commission or any predecessor of the Commission. R.S.O. 1960, c. 394, s. 10.

Variation of
orders, etc.

11. The Commission has exclusive jurisdiction to hear and determine any differences that arise between two or more telephone systems or municipalities in respect of the establishment, extension, operation or maintenance of a telephone system or in

Determina-
tion of
disputes

respect of any act, matter or thing required to be done by them or any of them under this Act, and to make such orders in respect thereof as it considers proper. R.S.O. 1960, c. 394, s. 11.

Inquiry as to whether rates sufficient

12. The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a telephone system, other than a municipal telephone system, are sufficient to pay the funded debt and interest accruing thereon and the cost of operation and maintenance and a reasonable return on capital investment, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it considers proper. R.S.O. 1960, c. 394, s. 12.

Examination of and report upon telephone system

13.—(1) The Commission, whenever it appears to be expedient or necessary for the purpose of carrying into effect any of the provisions of this Act or upon any application, complaint or dispute before the Commission or in connection with any matter or thing over which the Commission has jurisdiction, may direct any person to examine and report upon the construction, operation or management of a telephone system, and for that purpose such person may at all reasonable hours enter any building, office or other premises belonging to or connected with the system and examine all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to the system and examine the switchboards, instruments, toll stations and all other property that belongs to or forms a part of the system.

Powers of examiner
R.S.O. 1970,
c. 323

(2) The person directed to make such examination and report has and may exercise any of the powers set out in section 52 of *The Ontario Municipal Board Act*.

Implementation of report of examiner

(3) Upon receiving the report of the person directed to make examination and report, the Commission may adopt the report in whole or in part and may thereupon make such order in respect of the subject-matter of the report as it considers proper. R.S.O. 1960, c. 394, s. 13.

Powers of Commission to hear complaints

14. The Commission may inquire into, hear and determine an application by or on behalf of any person,

- (a) complaining that a telephone system has failed to do any act, matter or any thing required to be done by it under this Act or the regulations or under a predecessor of this Act or that a system has done or is doing anything contrary to this Act or the regulations;
- (b) complaining that a system is charging rates or tolls in excess of those approved by the Commission;
- (c) requesting the Commission to make any order or give any direction or approval that by law it is authorized to make or give. R.S.O. 1960, c. 394, s. 14.

15.—(1) The Commission of its own motion may order any person, system or municipality to do forthwith or within any specified time and in the manner directed by the Commission anything that any person, system or municipality is or may be required to do under this Act or the regulations, and the Commission may, by its order, forbid the doing or continuing of anything that is in contravention of this Act or the regulations. R.S.O. 1960, c. 394, s. 15.

Powers of Commission exercisable on its own motion

(2) Every person, system or municipality that refuses or neglects to comply with an order of the Commission made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1962-63, c. 139, s. 2.

Penalty for refusal or neglect to obey order of Commission

16. The Commission may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under and in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved is not open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto. R.S.O. 1960, c. 394, s. 16.

Commission may approve of forms, etc.

17.—(1) The Commission may, of its own motion or upon the application of any party to proceedings before the Commission and upon such security being given as it may direct, state a case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the Commission, is a question of law.

Stated case

(2) The Court of Appeal shall hear and determine the stated case and remit it to the Commission with the opinion of the court thereon. R.S.O. 1960, c. 394, s. 17.

Idem

18. The Lieutenant Governor in Council may at any time upon petition of any party, all parties first having been heard, vary or rescind any order or decision of the Commission whether the order or decision was made *inter partes* or otherwise, and any order that the Lieutenant Governor in Council makes with respect thereto is binding upon the Commission and all parties. R.S.O. 1960, c. 394, s. 18.

Rescission or orders by Lieutenant Governor in Council

19.—(1) An appeal lies from the Commission to the Court of Appeal upon any question of jurisdiction or upon any question of law, but no such appeal lies unless leave to appeal is obtained from the court within one month of the making of the order or decision sought to be appealed from or within such further time as the court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal.

Appeals of question of jurisdiction and law

(2) Upon such leave being obtained, the Registrar of the Court of Appeal shall set the appeal down for hearing at the next sittings of the court and the party appealing shall, within ten

Notice of appeal

days, give to the parties affected by the appeal, or to the solicitors by whom such parties were represented before the Commission, and to the Commission notice in writing that the case has been so set down and the appeal shall be heard and disposed of by the court as speedily as practicable.

Opinion
of court

(3) On the hearing of an appeal under this section, the court may draw such inferences as are not inconsistent with the facts expressly found by the Commission and necessary for determining the question of jurisdiction or law, as the case may be, and shall specify its opinion to the Commission and the Commission shall make an order in accordance with such opinion.

Commission
may be
heard

(4) The Commission is entitled to be heard by counsel or otherwise upon the argument of any such appeal.

Commission
not liable
for costs

(5) The Commission or any member thereof is not liable for costs in connection with any appeal or application for leave to appeal under this section. R.S.O. 1960, c. 394, s. 19.

Orders of
Commission
final and
binding

20. Except as provided in sections 18 and 19 every order and decision of the Commission is final and binding. R.S.O. 1960, c. 394, s. 20.

Orders may
be general
or
particular

21. An order of the Commission may be general or particular in its application territorially or as to time or otherwise. R.S.O. 1960, c. 394, s. 21.

R.S.O. 1970,
c. 410,
not to
apply

22. *The Regulations Act* does not apply to any order, regulation or by-law made under the authority of this Act. R.S.O. 1960, c. 394, s. 22.

Costs of
proceedings
before
Commission

23. The costs of and incidental to any proceedings before the Commission are in the discretion of the Commission, and the Commission may order by whom and to whom any costs are to be paid. R.S.O. 1960, c. 394, s. 23.

Annual
report

24.—(1) The Commission shall, after the close of each calendar year, make an annual report upon the affairs of the Commission to the member of the Executive Council to whom the administration of this Act is assigned, who shall file it with the Provincial Secretary.

Idem

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 394, s. 24.

Act not to
affect
H.E.P.C.

25. Nothing in this Act confers upon the Commission any jurisdiction as to matters that are under *The Power Commission*

Act or that otherwise are within the exclusive jurisdiction of The Hydro-Electric Power Commission of Ontario. R.S.O. 1960, c. 394, s. 25. R.S.O. 1970, c. 354

26. The Commission, subject to the approval of the Lieutenant Governor in Council, may make regulations, Regulations

- (a) to regulate and control the business practices and accounting practices of telephone systems;
- (b) prescribing the forms of accounts, books of accounts and records to be kept by telephone systems;
- (c) to regulate and control the type of construction of plants of telephone systems;
- (d) to regulate and control the maintenance and operating practices of telephone systems;
- (e) prescribing rules of practice and procedure applicable to proceedings before the Commission;
- (f) prescribing fees applicable to proceedings before the Commission and for certified copies of orders and other documents made or issued by the Commission;
- (g) prescribing the form of and the particulars to be contained in tariffs of rates and tolls and the manner and form in which tariffs of rates and tolls shall be published and kept open for public inspection;
- (h) prescribing the form and the particulars to be contained in the annual returns to be made by telephone systems to the Commission;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 394, s. 26.

27. Any municipality may establish and carry on a telephone system as a public utility and for the purposes of such system may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein, an underground or overhead or partly underground and partly overhead telephone plant and do all things necessary or convenient for the purpose including the issue of debentures to meet the cost of the same. R.S.O. 1960, c. 394, s. 27. Establishment and operation of telephone system as public utility

28. A municipality may, for the purpose of establishing or carrying on a telephone system as a public utility, acquire by purchase or lease or, subject to sections 35 to 86 in that behalf, may expropriate any system in the municipality. R.S.O. 1960, c. 394, s. 28. Acquisition of existing systems

Debentures of acquired system to be paid by municipality

29. Where a municipal system is acquired by a municipality under section 28, any debentures theretofore issued in respect of the municipal telephone system and then outstanding and unpaid cease to be a charge upon the lands of the respective subscribers or any of them and the debentures as they mature and fall due and the interest upon them become a first charge against the revenues of the system, and, if such revenues are insufficient in any one or more years, they shall be met and paid by a special rate to be imposed by the municipality upon all rateable property in the municipality. R.S.O. 1960, c. 394, s. 29.

Debentures, assent of electors

30. No by-law authorizing the issue of debentures and no by-law authorizing the assumption of any outstanding debentures issued in respect of a municipal telephone system may be passed by the council of a municipality in the exercise of the powers conferred by section 27, 28 or 29 until the approval of the Board has been first obtained and such a by-law is not valid until it has received the assent of the electors qualified to vote on money by-laws under *The Municipal Act*. R.S.O. 1960, c. 394, s. 30.

R.S.O. 1970, c. 284

Right of passage

31. Where parts of a building in a municipality are owned or occupied by different persons, the municipality may carry wires to any part of such building, and for that purpose may pass over or through or under the property belonging to any owner or in the possession of any tenant or occupant. R.S.O. 1960, c. 394, s. 31.

Parts III and IV of R.S.O. 1970, c. 390, to apply

32. Parts III and IV of *The Public Utilities Act* apply *mutatis mutandis* to a municipality establishing and carrying on a telephone system as a public utility, and the expression "public utility", where it occurs in those Parts, includes a telephone system. R.S.O. 1960, c. 394, s. 32.

Borrowing money for extension or acquisition

33.—(1) Where a municipality has heretofore constructed, purchased or acquired or hereafter constructs, purchases or acquires a telephone system under section 27 or 28 or where it has undertaken the construction, purchase or acquisition of such a system and it appears that the cost of the construction, purchase or acquisition has exceeded or will exceed the amount already provided for that purpose or where it is considered expedient by the council of the municipality to construct an extension or an improvement of the system, the council may, with the approval of the Board, pass a by-law for borrowing such further or other sums as may be necessary to complete, extend or improve the system or for the purchase or acquisition of the system or to meet the cost of any extension or improvement already made to the system.

Where assent of electors not required

(2) The by-law does not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Board.

(3) Such approval may be given if it is shown to the satisfaction of the Board that the expenditure proposed to be made for any such extension or improvement or for the completion of the system or the purchase or acquisition is necessary and that sufficient revenue or sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon or where it is made to appear to the Board that the net revenue to be derived from the system justifies the construction of such extension or improvement. R.S.O. 1960, c. 394, s. 33.

Where
approval
may be
given

34. Sections 42 to 44, sections 53 to 56, section 62, sections 80 to 84, section 86, sections 89 to 99 and sections 102 to 115 apply *mutatis mutandis* to a municipality carrying on a telephone system as a public utility. R.S.O. 1960, c. 394, s. 34.

Application
of other
provisions

35. A petition signed by not less than ten assessed landowners may be presented to the council of a local municipality praying for the establishment of a municipal telephone system. R.S.O. 1960, c. 394, s. 35.

Petition for
establish-
ment of
system

36. A petition signed by one or more assessed landowners may be presented to the council of a local municipality or the commissioners, as the case may be, in which a municipal telephone system has been established praying for an extension of the system so as to serve his or their premises, as the case may be. R.S.O. 1960, c. 394, s. 36.

Petition
for
extension
of system

37. A petition under section 35 or 36 shall set forth such particulars as the Commission requires, and a signature after being affixed to the petition shall not be removed therefrom except with the approval of the Commission, but no application for such approval shall be considered by the Commission after the lapse of six months from the date of the passing of the by-law for the establishment of the municipal telephone system or, in the case of a petition for an extension to the system, after the lapse of six months from the date upon which the signature was affixed to the petition. R.S.O. 1960, c. 394, s. 37.

Particulars
to be stated
in petition
and removal
of names

38. Where the petition for the establishment or extension of a municipal telephone system prays that debentures of the initiating municipality be issued to pay the cost of the work, any additional landowner may, with the permission of the council or the commissioners, as the case may be, at any time before the passage of the debenture by-law, affix his signature to the petition, and thereupon and thereafter the additional landowner has all the rights and is subject to all the obligations of the original signatories to the petition. R.S.O. 1960, c. 394, s. 38.

Adding
signatures
to petition

Petition to
constitute
contract

39. The petition constitutes a valid and binding contract on the part of each person signing it to repay to the initiating municipality his share of the cost of establishing or extending the municipal telephone system, as the case may be, and operating and maintaining the system. R.S.O. 1960, c. 394, s. 39.

By-law for
establish-
ment of
system

40. Upon the receipt of a petition praying for the establishment of a municipal telephone system, the council of the initiating municipality may by by-law, at the expense of the subscribers and subject to such conditions as may be set forth in the by-law, provide for the establishment of the system and for the maintenance and operation of the system. R.S.O. 1960, c. 394, s. 40.

Construc-
tion of
extensions

41. After the establishment of a municipal telephone system, the initiating municipality may from time to time, upon the receipt of a petition praying for an extension of the system, construct any extension that seems expedient and necessary in order to supply telephone service to the petitioners. R.S.O. 1960, c. 394, s. 41.

Extension
of system
to another
municipality

42. The council of the initiating municipality or the commissioners, as the case may be, may from time to time extend the system into another municipality with the consent of the council of such other municipality or, without such consent, with the approval of the Commission. R.S.O. 1960, c. 394, s. 42.

Extension
of system
into un-
organized
territory

43. Subject to section 101, the council of the initiating municipality or the commissioners, as the case may be, may, with the consent of the Commission, extend the system into territory without municipal organization, and the part of such territory into which the system is extended, to be defined by the Commission, shall, for the purposes of this Act, be deemed to be annexed to the initiating municipality, and the council and officers thereof shall levy and collect all rates and tolls under this Act and do all acts and perform all duties and are subject to the same liabilities in respect of such part as, for the purposes of this Act, they may do, perform and are subject to with respect to the initiating municipality. R.S.O. 1960, c. 394, s. 43.

Approval of
by-laws,
plans and
specifications

44.—(1) The initiating municipality, before proceeding to establish a system, shall furnish to the Commission a certified copy of the by-law providing for the establishment of the system, together with such plans, particulars of the cost of the work and such other information as the Commission requires, and no debt shall be incurred for the construction of the system or for the purchase of material to be used in the construction of its plant until the Board with the consent of the Commission has approved the by-law.

Extensions

(2) The by-laws may provide in general terms for the making

of extensions to the system from time to time thereafter and, upon the receipt of a petition for an extension, the initiating municipality may from time to time construct the extension, and, if any such extension requires the issue of debentures, the by-law authorizing the issue shall recite the making of the extension and shall adopt and confirm the same. R.S.O. 1960, c. 394, s. 44.

45. The council of the initiating municipality or the commissioners, as the case may be, shall, with the approval of the Commission, determine the location of any exchange or switchboard of the system and any relocation of the same. R.S.O. 1960, c. 394, s. 45.

Location of
exchange

46. A municipal telephone system established or extended is vested in the initiating municipality in trust for the benefit of the subscribers, and such municipality is liable for all the obligations of the system and has and may exercise all or any of the powers conferred on a municipality by sections 27, 28 and 31. R.S.O. 1960, c. 394, s. 46.

Ownership
of system

47.—(1) Subject to the approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and subject to the approval of the Commission, the council of an initiating municipality in which a municipal telephone system is vested may by by-law provide for the sale or other disposition of the whole or any part of the system.

Sale of
system
or part

(2) The Commission may by order dispense with the approval of the subscribers to the sale or other disposition of part of a system that, in the opinion of the Commission, is not a substantial part of the system.

Approval
not required

(3) The proceeds of the sale or other disposition shall be applied and used in payment of the outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system.

Use of
proceeds to
discharge
debts

(4) Where the assets of the system and the proceeds of the sale or other disposition of the whole or the part of the system are not sufficient to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, the deficiency shall be paid out of the general funds of the initiating municipality and the amount so paid constitutes a debt due in equal shares from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by the subscribers under this Act.

Where
deficiency
occurs

(5) The proceeds of the sale or other disposition not required for the purposes mentioned in subsection 3 shall,

Disposition
of surplus

(a) in the case of a sale or other disposition of part only of

the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and

- (b) in the case of a sale or other disposition of the whole of the system, belong to the subscribers and be distributed among them in such manner and on such basis, having regard to their separate interests, as the Commission directs.

Where subscribers are unknown

(6) Where from absence or loss of records or other cause the council of the initiating municipality is unable to ascertain who the subscribers are and is therefore unable to obtain their approval to a sale or other disposition of the whole or a part of the system, the council, with the approval of the Commission upon proof of the fact and upon proof that the assets of the system and the proceeds of the sale or other disposition of the whole or part of the system will be sufficient to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, may authorize the sale or other disposition notwithstanding the absence of such approval, and the proceeds of the sale or other disposition not required for the purposes mentioned in subsection 2 shall,

- (a) in the case of a sale or other disposition of part only of the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and
- (b) in the case of a sale or other disposition of the whole of the system, be held, applied, used, distributed and disposed of in accordance with the directions of the council or the commissioners, as the case may be, and the approval of the Commission. R.S.O. 1960, c. 394, s. 47.

Issuing debentures for cost of work

48.—(1) Where the subscribers or a majority of them, in a petition for the establishment or extension of the system, pray that the payment of the cost of the work be extended over a period not exceeding twenty years and that debentures of the initiating municipality be issued to pay the cost of the work, the council of the initiating municipality in the by-law providing for the establishment or extension of the system, or in a subsequent by-law, may provide for the issue of debentures payable within a period not exceeding twenty years from the date of the issue thereof and that the proceeds of the debentures shall be applied in payment of the cost of establishing or extending the system, as the case may be, and for levying a special rate upon the property of the subscribers sufficient to discharge the debt so incurred in equal annual instalments of principal and interest.

(2) The debentures shall be issued on the credit of the initiating municipality, and it is not necessary that the by-law authorizing their issue be submitted for the assent of the electors, but no such by-law shall be passed for any of the purposes of this section until the approval of the Board has first been obtained. R.S.O. 1960, c. 394, s. 48.

Assent of
electors not
required

49. The initiating municipality may, subject to subsection 1 of section 44 and subsection 2 of section 48, agree with any person for temporary advances to meet the cost of the work until the completion thereof and may then pass the necessary by-law authorizing the issue of debentures out of the proceeds of which the temporary advances shall be paid, but the by-law for the issue of debentures shall be passed not later than two years after the passing of the by-law for the establishment or extension of the system, as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law authorizing the issue of the debentures, but the Board may extend beyond two years the period within which the by-law for the issuing of debentures may be passed and may extend beyond twelve months the period within which the debentures may be issued, and such extension of time may be granted although the application therefor is not made until after the expiration of such period of two years or twelve months, and in such case the by-law may be passed or the debentures issued within the extended time. R.S.O. 1960, c. 394, s. 49.

Agreement
for
advances

50.—(1) Where in the opinion of the council of the initiating municipality or the commissioners, as the case may be, it is necessary or expedient to reconstruct, replace or alter the system or any part thereof and to issue debentures of the initiating municipality to meet the cost thereof, the council of the initiating municipality may, with the prior approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and the prior approval of the Board, pass a by-law authorizing the doing of the work and the issuing of debentures for that purpose, and it is not necessary that the by-law be submitted for the assent of the electors.

Reconstruction,
replacement or
alteration
of system

(2) The Board shall determine the period within which the debentures to be issued shall be made payable and the landowners who shall defray the cost of such reconstruction, replacement or alteration, and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest.

How cost
paid

(3) The provisions of this Act as to debentures apply to debentures issued under this section. R.S.O. 1960, c. 394, s. 50.

Provisions
of Act
to apply

Extensions
for persons
not assessed
as land-
owners

51. The initiating municipality may, with the approval of the subscribers and with the prior approval of the Board and without obtaining the assent of the electors, pass by-laws authorizing the issue of debentures to meet the cost of making an extension or extensions to the system for the purpose of furnishing telephone service to persons who are not landowners but, before approving of any such by-law, the Board shall be satisfied that such extension or extensions is or are necessary and that a sufficient additional revenue will be derived therefrom to meet the annual payments of principal and interest in respect of the debt created by the issue of such debentures or that the net revenue derived from the system justifies the construction of such extension or extensions. R.S.O. 1960, c. 394, s. 51.

Works
ordered to
be deemed
extension
of system

52. Where an initiating municipality has been ordered by the Board or is ordered by the Commission to construct works under this Act, such works shall be deemed to be an extension of the system of such municipality and the council of the initiating municipality has and may exercise in respect of such works the like powers as are vested in the council by this Act in respect of the construction of an extension of a system and the issue of debentures to meet the cost thereof, and such powers may be exercised without a petition from the subscribers to the system or any of them. R.S.O. 1960, c. 394, s. 52.

Purchase by
municipality
of existing
system

53. An initiating municipality may, with the consent of the Commission and the approval of the Board, by agreement with the owner acquire by purchase all or any part of any existing telephone system in the municipality or any part of such system in another municipality with the consent of the council of such other municipality and, failing such consent, with the approval of the Commission. R.S.O. 1960, c. 394, s. 53.

Acquisition
of system
by agree-
ment or
expropria-
tion

54.—(1) For the establishment or extension of a telephone system or to avoid duplication of systems or any part thereof, an initiating municipality may offer to purchase at a fixed price a telephone system or any part thereof, and, if the owner does not accept the price so offered within one month from the date of the offer, the initiating municipality may, with the consent of the Commission and the approval of the Board, expropriate the system or the part thereof that it offered to purchase and the compensation to be made upon such expropriation shall be determined by the Commission, except that, where the expropriation includes the expropriation of land as defined in *The Expropriations Act*, that Act applies.

R.S.O. 1970,
c. 154

Damage
resulting
from
severance

(2) In fixing the price to be offered or the compensation to be made where part only of a system is proposed to be purchased or is expropriated, there shall be included in the price or compensation, as the case may be, a sum sufficient to compensate the owner of

the system for any damage directly resulting from the severance. R.S.O. 1960, c. 394, s. 54, *amended*.

55. Where a municipality owning and operating or intending to own and operate a telephone system has taken proceedings under this Act to acquire a part of the system of a municipality operating in the first-named municipality or in an adjoining municipality and the parties are unable to agree upon the price to be paid therefor, the Commission may prohibit further proceedings or may approve the acquisition and settle the terms and conditions thereof including the price to be paid and all other matters proper to be taken into consideration. R.S.O. 1960, c. 394, s. 55.

Arbitration
by Commission
where
parties fail
to agree

56. Where the council of an initiating municipality acquires by purchase or expropriation an existing telephone system or part thereof, the powers vested by this Act in the council of the initiating municipality as to borrowing by way of temporary advances and in respect of the issue of debentures for the establishment or extension of a system may be exercised by the council of the initiating municipality for the purpose of defraying the cost of such purchase. R.S.O. 1960, c. 394, s. 56.

Powers of
council to
borrow
money and
to issue
debentures

57. The cost of establishing a municipal telephone system or of an extension thereto shall be defrayed by the subscribers whose signatures are affixed to the petition for such establishment or extension in equal proportions or in such other proportions as are fixed by the council of the initiating municipality with the approval of the Commission, and, in case of default in payment by any subscriber of the amount so fixed, it may be collected as an ordinary debt by action against the person liable therefor or may be added to the collector's roll as taxes due from him and may be collected in the same manner as other taxes. R.S.O. 1960, c. 394, s. 57.

Liability
of
subscribers

58.—(1) Where the subscribers have prayed that debentures of the initiating municipality be issued to pay the cost of the work, the special rates assessed against the land of a subscriber are a charge upon the land designated by the subscriber in the petition for the establishment or extension of a system and being land owned by the subscriber when he signed the petition, and shall, notwithstanding a change in the ownership of the land, continue to be a charge thereon until such rates have been fully paid, and such rates may, as they become payable, be collected as an ordinary debt by action against the person liable therefor or may be placed upon the collector's roll against the land as taxes due from the owner of the land and may be collected in the same manner as other taxes, and this section applies to all such rates heretofore or hereafter assessed against any lands under this Act or any predecessor of this Act.

Special rate
a charge
on land

Commuta-
tion of
special
rates

(2) Where land is liable to be specially assessed to meet the cost of the work, any subscriber may commute, for a payment in cash, the special rates assessable against his land forthwith after the actual cost of the work and the proportion of the cost payable by him have been ascertained. R.S.O. 1960, c. 394, s. 58.

Cost of
maintenance

59.—(1) The cost of maintenance of a municipal telephone system shall be defrayed by the subscribers in equal proportions or in such other proportions as are fixed by the council of the initiating municipality and approved by the Commission and is a charge on the lands of the subscribers in the same proportion, and may be collected in the same manner and with the same remedies, as the cost of the establishment or extension of a system or as any special rate assessed against the land of a subscriber in respect of such cost.

Collections
of tolls
paid to
other
systems for
subscribers

(2) Any tolls or moneys paid by the initiating municipality to any other system for telephone service furnished by such system to any subscriber of the initiating municipality are a charge upon the land of the subscriber and may be collected by the initiating municipality in the same manner and by the same remedies as the cost of the maintenance of the system. R.S.O. 1960, c. 394, s. 59.

Release of
subscribers
from
liability

60.—(1) Where there are not outstanding debentures of a municipal telephone system, a subscriber may be released and discharged from all liability in respect of the system upon application to the Commission.

Idem

(2) Where debentures of a municipal telephone system are outstanding, a subscriber who has fully paid his share of all instalments of principal and interest due or to become due under the debenture by-law, together with all other charges payable by him in respect of the system, may be released and discharged from all liability in respect of the system upon application to the Commission. R.S.O. 1960, c. 394, s. 60 (1, 2).

Release on
discon-
tinuation of
service

(3) Where telephone service of a municipal telephone system has been discontinued, any subscriber for such service, or any of his lands, may be released and discharged from all liability in respect of the system, other than liability under subsection 4 of section 47, upon application to the Commission.

Release
on sale

(4) Where part only of the system has been sold or otherwise disposed of and where the moneys received by the system from the sale or disposition are equal to or exceed the proportion of the debenture debt, interest thereon, maintenance costs and other costs chargeable under this Act at the date of sale against lands within the part of the system so sold or disposed of, the subscribers within such part are released and discharged from all liability in respect of the system.

(5) Where, under this section, any subscriber is released and discharged from liability or the whole of the lands of a subscriber are released and discharged from liability, such subscriber ceases to be a subscriber. When subscriber-ship ceases

(6) A release and discharge from liability under this section does not discharge any person from any liability that may arise under any contract for telephone service. 1966, c. 153, s. 1. Release subject to contract charges

61.—(1) The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a municipal telephone system are sufficient to pay the cost of operation and maintenance of the system and the instalments of principal and interest on any outstanding debentures, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it considers proper. Inquiry as to sufficiency of rates

(2) Where the revenues of a municipal telephone system are insufficient in any year to meet the cost of operation and maintenance of the system and the instalments of principal and interest falling due in such year on account of any outstanding debentures of the initiating municipality issued for the telephone system, the deficiency shall be paid out of the general funds of the initiating municipality and the amount so paid constitutes a debt due from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by subscribers under this Act. R.S.O. 1960, c. 394, s. 61. How deficiency made up

62. Any question arising as to the validity of any special rate levied under this Act shall be determined by the Commission on an application to it for that purpose. R.S.O. 1960, c. 394, s. 62. Validity of rate

63. The council of the initiating municipality or the commissioners, as the case may be, may prescribe the terms on which a person not being a subscriber may have his premises connected with the system and the rate at which he may receive telephone service, and any such rate that heretofore has been approved by the Board or may hereafter be approved by the Commission may be collected in the same manner and with the same remedies as a rate due and unpaid by a subscriber, but such rate does not become a charge against the land. R.S.O. 1960, c. 394, s. 63. Prescribing terms of connection

64. Until the control and management of a municipal telephone system is placed under commissioners, the system is under the control and management of the council of the initiating municipality. R.S.O. 1960, c. 394, s. 64. Council to manage system

65.—(1) Upon the petition of a majority of the subscribers, the council of the initiating municipality shall place the telephone system under the control and management of commissioners to be Petition for management by commissioners

designated "The Commissioners for the Telephone System of the Municipality of", a majority of whom may exercise all the powers of the commissioners.

Number
of commis-
sioners

(2) Where the system is in the initiating municipality only, there shall be three or five commissioners and, where the system extends into one or more other municipalities, there shall be an odd number of commissioners, not less than three.

Idem

(3) Subject to subsection 2, the number of commissioners first elected shall be as specified in the petition.

Increase or
decrease in
number of
commis-
sioners

(4) Subject to subsection 2, the commissioners may by by-law increase or decrease the number of commissioners, but no such by-law shall come into force until confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers, and if so confirmed such by-law shall not be amended or repealed until two annual elections have been held under it. R.S.O. 1960, c. 394, s. 65.

Election of
commis-
sioners

66. Except as authorized under clause *d* of subsection 1 of section 71, the commissioners shall be elected each year at the annual general meeting of the subscribers or at a general meeting called for the purpose, and the commissioners shall hold office until their successors are elected. R.S.O. 1960, c. 394, s. 66.

Eligibility

67.—(1) No person is eligible for election as a commissioner, unless he is a subscriber to the municipal telephone system.

Disqualifi-
cation

(2) No assessor, collector, treasurer, clerk, auditor or member, other than the head, of the council of a municipality is eligible to be elected a commissioner. R.S.O. 1960, c. 394, s. 67.

Vacancies

68. Where a commissioner resigns, dies or becomes incapacitated, the council of the initiating municipality shall immediately appoint a successor who shall hold office until the next general meeting of the subscribers. R.S.O. 1960, c. 394, s. 68; 1962-63, c. 139, s. 3.

Powers of
commis-
sioners

69.—(1) Upon the election of the commissioners, the control and management of the municipal telephone system are vested in the commissioners and all the provisions of this Act relating to the initiating municipality and the council thereof in respect of the system, except in so far as they or any of them are by this Act expressly excepted, are applicable to the commissioners.

Ownership
of system
and duties
of initiating
municipality

(2) The election of the commissioners does not affect the ownership of the system nor the authority and duty of the initiating municipality to provide from time to time all moneys required for the establishment and maintenance of the system and any extension thereof, nor the right of the initiating municipality to levy and collect all moneys and special rates that may be

due and owing from time to time by the subscribers. R.S.O. 1960, c. 394, s. 69.

70. The commissioners may require the secretary or any other officer of the municipal telephone system to give such security as they require for the faithful performance of his duties and for the accounting for and paying over of all moneys that come into his possession or control. R.S.O. 1960, c. 394, s. 70.

Security
to be given
by
secretary,
etc.

71.—(1) The commissioners may pass by-laws to provide for and regulate,

By-laws

- (a) the time and place at which meetings of subscribers shall be held and the manner of calling and the procedure at meetings;
- (b) the manner of election, duties and remuneration of the commissioners;
- (c) the control and management of the system;
- (d) the term of office of the commissioners by extending the term to three years so that at the first election of commissioners for a term of three years one or more of them shall hold office for a term of one year only, one or more of them for a term of two years and the remaining one or more for a term of three years,

but such by-laws shall not come into force until approved by the Commission and confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers.

(2) A by-law under clause *b* of subsection 1 providing for and regulating the remuneration of the commissioners does not require the approval of the Department of Municipal Affairs under section 391 of *The Municipal Act*. R.S.O. 1960, c. 394, s. 71.

Remuneration
of commis-
sioners

R.S.O. 1970,
c. 284

72. Upon the petition of a majority of the subscribers of a municipal telephone system praying that the council of the initiating municipality take over the control and management of the system, the council shall pass a by-law for that purpose, and thereupon the commissioners shall hand over to the council, or some official designated by it, all the property of the system, including all moneys, vouchers, books, papers, documents and memoranda relating to the system, and thereafter the control and management of the system is vested in the initiating municipality and the council thereof. R.S.O. 1960, c. 394, s. 72.

Assumption
of control
by council
of system
operated by
commis-
sioners

73. Every municipal telephone system shall hold a general meeting of its subscribers in each year not later than the 1st day of

Annual
meeting

April or at such time later in each year as is approved by the Commission. R.S.O. 1960, c. 394, s. 73.

Financial
statement
to be sent
to
subscribers

74.—(1) Not less than ten days before the day fixed for holding the annual general meeting, a financial statement shall be sent by first-class prepaid mail or delivered to each subscriber, to each member of the council of the initiating municipality and to the Commission containing,

- (a) a balance sheet showing in sufficient detail the assets and liabilities of the system as of the 31st day of December last past;
- (b) a statement of the income and expenditure of the system for the financial year ending on the 31st day of December last past;
- (c) a copy of the report of the auditor or auditors for the year ending on the 31st day of December last past;
- (d) such other information respecting the system as the by-law requires or the Commission prescribes.

Statement
to be
submitted
to meeting

(2) The financial statement mentioned in subsection 1 shall be submitted to the subscribers at the annual general meeting. R.S.O. 1960, c. 394, s. 74.

Notice

75.—(1) In default of other express provision in the by-laws of the system, notice of the time and place of holding any general meeting of the subscribers shall be given at least ten days before the meeting by first-class prepaid mail or by delivery to each subscriber and to each member of the council of the initiating municipality.

Sending
notices

(2) Notices calling a general meeting of the subscribers and the financial statement shall be sent by the commissioners or by their secretary or other officer and, where the system is under the control and management of the council, by the clerk of the initiating municipality.

Business
to be
stated

(3) The notice calling a general meeting of the subscribers shall state the business that is to be transacted at it. R.S.O. 1960, c. 394, s. 75.

General
meeting
called on
requisition

76.—(1) Upon receipt of a requisition in writing, signed by not less than one-tenth of the subscribers, setting forth the objects of the proposed meeting, the commissioners, by their secretary or other officer or, where the system is under the control and management of the council, the clerk of the initiating municipality shall forthwith call a general meeting of the subscribers for the transaction of the business mentioned in the requisition.

General
meeting
called by
subscribers

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was sent or

delivered to the chairman or secretary of the commissioners or to the clerk of the initiating municipality, as the case may be, one-tenth of the subscribers, whether they signed the requisition or not, may themselves, by notice as provided in section 75, call a general meeting of the subscribers for the transaction of the business. R.S.O. 1960, c. 394, s. 76.

77. The council of the initiating municipality or the commissioners, as the case may be, may of their own motion call a general meeting of the subscribers for the transaction of any business. R.S.O. 1960, c. 394, s. 77.

General meeting called by council, etc.

78. No person is entitled to vote at a general meeting of a municipal telephone system unless he is a subscriber to the system, but any member of the council of the initiating municipality may attend any general meeting and take part in the deliberations thereat, but shall not vote unless he is a subscriber. R.S.O. 1960, c. 394, s. 78.

Who may vote at general meeting

79.—(1) The presence in person of not fewer than five subscribers representing in person or by proxy at least one-tenth of all the subscribers is necessary to constitute a quorum at a general meeting of the subscribers of a municipal telephone system, and the instrument appointing a proxy shall be in writing under the hand of the appointer or, if such appointer is a corporation, under its seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a subscriber.

Quorum

(2) Where a quorum is not present one hour after the time a general meeting has been called, the meeting shall be adjourned for one week at the same time and place and those subscribers present at the second meeting constitute a quorum. R.S.O. 1960, c. 394, s. 79.

Quorum not required

80. Where a municipal telephone system is under the control and management of the initiating municipality, the several officials of the municipality in their respective offices shall do and perform all acts, matters and things herein on their part respectively directed to be done and performed in respect of the system and, where the system is under the control and management of commissioners, the several officials respectively shall do and perform the acts, matters and things in like manner unless relieved therefrom by the commissioners. R.S.O. 1960, c. 394, s. 80.

Duties of municipal officials of initiating municipality

81.—(1) Where a municipal telephone system extends into a municipality other than the initiating municipality, the clerk of the initiating municipality shall,

Duties where system extended to another municipality

(a) forthwith after its passing, transmit to the clerk of the

other municipality a certified copy of every debenture by-law charging with a rate the premises of any subscriber situated in the other municipality; and

- (b) when so required by the initiating municipality or the commissioners, as the case may be, transmit to the clerk of the other municipality, on or before such date as the council of the other municipality by by-law prescribes, the amount in respect of the debentures and the cost of maintenance payable by each such subscriber.

Collection
of rates

(2) The amount payable by each subscriber shall be placed on the collector's roll and shall be collected in the same manner as municipal taxes and paid over to the treasurer of the initiating municipality at the end of each month. R.S.O. 1960, c. 394, s. 81.

Re-
muneration
of
municipal
officials

82. The initiating municipality or the commissioners, as the case may be, shall pay to the clerk, treasurer and collector of the initiating municipality and to the clerk, treasurer and collector of any other municipality into which its system extends a reasonable remuneration for the services performed by them or any of them under this Act, and such remuneration shall be fixed by agreement between the official performing the service and the council of the municipality or the commissioners, as the case may be, and, failing agreement, by the Commission on an application to it for that purpose. R.S.O. 1960, c. 394, s. 82.

Breach
of duties by
municipal
officials

83. The clerk, treasurer or collector of any municipality failing or neglecting to do and perform any act, matter or thing required of him by this Act or by order of the Commission directed to be done and performed by them respectively is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1960, c. 394, s. 83.

Books to
be kept

84.—(1) The council of the initiating municipality or the commissioners, as the case may be, shall cause proper books of account to be kept containing full and true statements of,

- (a) the financial transactions of the system;
- (b) the assets of the system;
- (c) the sums of money received and expended in respect of the system and the matters in respect of which such receipt and expenditure took place;
- (d) the credits and liabilities of the system;
- (e) the name of every subscriber and the location of his subscribed property,

and a book or books containing minutes of all the proceedings and votes at meetings of the council or commissioners and of subscri-

bers verified by the signature of the head of the council, the chairman of the commissioners or other presiding officer, as the case may be.

(2) All moneys received in respect of the system shall be deposited forthwith in a chartered bank in an account in the name of the system and all expenditures in respect of the system shall be paid by cheque drawn upon such account signed by the head of the council and treasurer of the initiating municipality or such other two signing officers as the council appoints or, where the system is under the control and management of commissioners, by the chairman and treasurer or such other two signing officers as the commissioners appoint. R.S.O. 1960, c. 394, s. 84.

Deposit and
withdrawal
of moneys

85. The accounts and transactions of a municipal telephone system shall be audited at least once in every year by the municipal auditor or auditors appointed and compensated as provided in section 227 of *The Municipal Act*. R.S.O. 1960, c. 394, s. 85.

Audit of
accounts

R.S.O. 1970,
c. 284

86. No action shall be brought against a municipal corporation or any of its officers, agents or servants for anything done or omitted in the construction, operation or maintenance of a municipal telephone system or in the exercise of any of the powers conferred by this Act after the lapse of six months from the time when the cause of action arose. R.S.O. 1960, c. 394, s. 86.

Limitation
of actions

87. Every unincorporated association or partnership of persons, comprising five or more members or partners, owning or proposing to own a telephone system and using or proposing to use a public highway or highways for the purpose of furnishing telephone service to the members or partners of such unincorporated association or partnership, or any of them, or to other persons, shall secure letters patent or articles of incorporation creating them a corporation with share capital for the purpose of carrying on the business of a telephone company. R.S.O. 1960, c. 394, s. 87, *amended*.

Partnerships
and un-
incorporated
associations
to be
incorporated

88. No by-law, special by-law or special resolution, as defined in *The Business Corporations Act* or *The Corporations Act*, whichever is applicable, of an incorporated telephone company hereafter passed has any force or effect until approved by the Commission and every such company shall cause such by-laws, special by-laws and special resolutions to be kept available for inspection at the head office of the company. R.S.O. 1960, c. 394, s. 88, *amended*.

By-laws
to be
approved
by
Commission
R.S.O. 1970,
c. 53, 89

89.—(1) Every telephone system shall furnish continuous telephone service that adequately and efficiently meets the needs of the public in the territory in which it operates.

Proper
service
to be given

Complaints

(2) Any person who is not satisfied with the service rendered may lodge a complaint with the Commission with respect thereto and the Commission may order the system complained against to take such action as the Commission considers necessary. R.S.O. 1960, c. 394, s. 89.

Termination of service

(3) Where a person supplied with telephone service is in default of payment of any rate or toll in respect of a service, the system may terminate the service upon giving the person seven days notice thereof in writing. 1962-63, c. 139, s. 4.

Orders to ensure proper service

90. The Commission may make such orders for the construction and maintenance of a plant as it from time to time considers necessary in order to ensure adequate and efficient telephone service to the public and for the protection of life and property. R.S.O. 1960, c. 394, s. 90.

Equipment ownership

91. Every telephone system shall own and maintain all equipment, except run-off poles on private property, operated in connection with the system, unless otherwise consented to by the Commission. R.S.O. 1960, c. 394, s. 91.

Duplication of pole leads on highways

92. No telephone system shall erect poles upon or along or adjacent to and parallel with any part of a highway upon or along which the pole leads of another system are already erected, or otherwise by means of its plant or any part thereof duplicate the plant of or compete with any other system that furnishes telephone service in the same locality in which the first-mentioned system proposes to furnish such service, unless by consent of the Commission. R.S.O. 1960, c. 394, s. 92.

Use of pole leads by two or more systems

93. Where in the opinion of the Commission the convenience of persons desiring telephone service requires the extension of a telephone system upon or along a highway, upon or along which there is already a telephone pole lead, the Commission may make such order as it considers expedient for authorizing the extension and consolidating the pole leads upon or along the highway. R.S.O. 1960, c. 394, s. 93.

Telephone service to be furnished on request

94. Notwithstanding anything in this Act, where a person makes application to a telephone system for telephone service, the system shall furnish such service upon terms to be agreed upon and, failing agreement, upon such terms and conditions as are ordered by the Commission. R.S.O. 1960, c. 394, s. 94.

Erection of poles on highways

95. Where it is necessary for the purpose of carrying into effect an order of the Commission that a telephone system should erect poles, cables, ducts or wires upon or along any road or highway under the jurisdiction of a town, village, county or

township, the system may, notwithstanding any limitations in any letters patent, articles of incorporation or otherwise, erect the poles, cables, ducts and wires upon or along the road or highway upon such terms and conditions as are agreed upon between the council of the municipality and the system, and, if the council and the system are unable to agree, then upon such terms and conditions as the Commission prescribes. R.S.O. 1960, c. 394, s. 95, *amended*.

96. A telephone system may enter into an agreement with any other system, whether the latter system is under the jurisdiction of the Legislature or not, providing for the connection, intercommunication, joint operation or reciprocal use of the respective lines and other plant controlled, owned or operated by the systems and for the transmission of business between the systems, and for the interchange of messages passing to, from or over their lines and other plant, and for the apportionment of tolls, commissions and expenditures and the division of receipts and profits and generally for the regulation, management and operation of their lines and other plant, but no such agreement has any validity or effect until approved by the Commission. R.S.O. 1960, c. 394, s. 96.

Agreements
for
connection,
joint
operation,
etc.

97. Where the lines or other parts of the plant of two or more telephone systems are situated in such proximity to each other as to make it expedient in the public interest that they be connected in order that there be intercommunication between them or joint operation or reciprocal use of them or that the lines or other plant be used jointly by the systems for the transmission of messages and either or any of the systems fail or refuse to enter into an agreement with the other or others, the Commission shall order,

Commission
may order
connection,
joint
operations,
etc.

- (a) that such connection be made;
- (b) by whom and in what manner any line or works necessary for the purpose of making the connection shall be constructed and maintained;
- (c) how the cost incurred in constructing and maintaining it or them shall be borne; and
- (d) upon such terms and conditions as the Commission may prescribe, that there shall be such intercommunication between or joint operation or reciprocal use of, and such transmission of messages by or over, the lines or other plant, including any connecting lines or works as the Commission may prescribe. R.S.O. 1960, c. 394, s. 97.

98.—(1) Where the lines of one or more telephone systems terminate on the switchboard of another system, the other system shall furnish all reasonable and proper facilities for the interchange of conversations between the systems.

Intercom-
munication
by systems

What
facilities
to be used

(2) The facilities to be so afforded shall include the providing of suitable switching facilities to connect the lines of the systems and the permitting of conversations to be transmitted without unreasonable delay over the lines so connected.

Terms

(3) The terms upon which the facilities for the interchange of conversation between two or more systems to be afforded under this section shall be fixed by agreements between the systems concerned, subject to the approval of the Commission, and, failing such agreement, they shall be fixed by the Commission. R.S.O. 1960, c. 394, s. 98.

Intercom-
munication
between
federal
and
provincial
systems

99. Where the lines or other parts of the plant of a telephone system under the jurisdiction of the Legislature and the lines or other parts of the plant of a system under the jurisdiction of the Parliament of Canada are situate in such proximity to each other as to make it practicable for the lines or other parts of the plant to be so connected as to provide direct communication whenever required between any telephone on the one system and any telephone on the other system, either of the systems or any municipal corporation or other public body or any person interested may file with the Commission and with the Canadian Transport Commission an application for an order that such connection be made together with evidence of service of the application upon the systems interested or affected and clauses *b*, *c*, *d* and *e* of subsection 1 of section 131 of *The Railways Act* apply *mutatis mutandis* to every such application. R.S.O. 1960, c. 394, s. 99, *amended*.

R.S.O. 1950,
c. 331

Use of
highways

100.—(1) No telephone system shall place in, upon, over or under any highway, lane or square under the jurisdiction of the council of a municipality any poles, cables, ducts, wires or other structures or equipment without having acquired the right so to do.

Grants of
right to
use
highways

(2) Notwithstanding the provisions of any other Act and with the approval of the Commission, the council of any municipality may pass a by-law or by-laws for granting to a system, upon such terms and conditions as are considered expedient, the right to use any highway, square or lane under its jurisdiction for placing in, upon, over or under the same poles, cables, ducts, wires or other structures or equipment, but no such by-law comes into force until approved by the Commission.

Commission
to
determine
differences
as to use
of highways

(3) Where the council and the system are unable to agree as to the terms and conditions upon which such right is to be granted, the council or the system may refer the matters in dispute to the Commission in which case the Commission, after hearing the evidence of all persons interested, may prescribe the terms and conditions, and thereupon the terms and conditions are binding upon the municipality and the system.

(4) Where a system fails to comply with any provision of this Act or the regulations or any order of the Commission, the Commission may terminate any right conferred upon the system under this section, in which case the by-law granting the right shall be deemed to be repealed.

Termination
of right

(5) Upon the termination of any right conferred upon a system under this section in accordance with the terms and conditions of the by-law granting the right or in accordance with an order of the Commission, the council may, with the approval of the Commission, order the system to remove its poles, cables, ducts, wires and other structures and equipment from the highways, squares and lanes under the jurisdiction of the council and, upon failing to comply with the order within ninety days, the council may remove the poles, cables, ducts, wires and other structures and equipment and charge the cost thereof to the system. R.S.O. 1960, c. 394, s. 100.

Effect of
termination
of right

101. The right to use, for the purposes of section 100, any highway or road allowance situated in territory without municipal organization may be granted by the Minister of Lands and Forests upon such terms and conditions and subject to such rentals or charges as he may determine. R.S.O. 1960, c. 394, s. 101.

Right to
use
highways
in
unorganized
territory

102.—(1) A telephone system shall not enter into an agreement with any other system that may have the effect of increasing the cost of telephone service to the public until the proposed agreement has been submitted to and approved by the Commission.

Agreements
increasing
cost of
service

(2) This section does not apply to an agreement in relation to a matter to which section 103 applies. R.S.O. 1960, c. 394, s. 102.

Application
of section

103. No telephone system and no part of a system or controlling interest in a system shall be sold or disposed of and no system shall be amalgamated with another system and no system shall enter into an agreement that in effect transfers its ownership or control until the Commission has approved the sale or other disposition, amalgamation or agreement. R.S.O. 1960, c. 394, s. 103; 1962-63, c. 139, s. 5.

Sales or
transfers of
systems,
etc.

104. The Commission may by its order terminate any of the rights, powers and privileges possessed by or conferred upon any telephone system under this Act, if the system contravenes section 102 or 103, and may by its order prohibit the system from carrying on business under this Act. R.S.O. 1960, c. 394, s. 104.

Termination
of powers
of system

105.—(1) Every telephone system shall file with the Commission its tariff of rates and tolls in such form and containing such particulars as the Commission requires and no system or

Tariffs and
tolls to be
filed and
approved

municipality shall charge or levy any rate or toll that has not been filed with and approved by the Commission. R.S.O. 1960, c. 394, s. 105.

Public
hearing

(2) Where the Commission is of the opinion that a change in a tariff of rates and tolls should not be approved without a public hearing, it shall give written notice of the time and place of the hearing to the telephone system desiring the change, and the telephone system shall, unless the Commission orders otherwise, publish, once a week for two successive weeks immediately preceding the hearing, notice of the hearing in a newspaper having general circulation in the municipality or municipalities where the change in the tariff is sought. 1962-63, c. 139, s. 6.

Prohibition
against dis-
crimination
as to tolls,
free service

106. There shall be no discrimination by any telephone system in favour of or against any person furnished with telephone service by the system by way of reduction or increase in any rate or toll, and no system shall without the approval of the Commission furnish free telephone service to any person. R.S.O. 1960, c. 394, s. 106.

Offence

107. Every officer of a telephone system who wilfully authorizes or permits any contravention of section 105 or 106 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence. R.S.O. 1960, c. 394, s. 107.

Depreciation
fund

108.—(1) Every telephone system shall provide and maintain a proper and adequate depreciation fund and for that purpose shall set aside each year a proportion of its earnings and the fund so provided shall, unless otherwise authorized by the Commission, be applied exclusively to meet the cost of the renewal and replacement of such part of the plant of the system as may be rendered necessary by age, wear and tear, obsolescence, damage by storm or other contingency and the Commission may require the system to make such changes in the rate of depreciation from time to time as the Commission considers expedient.

Deposit,
investment
and
application
of fund

(2) The moneys carried to the credit of the depreciation fund shall, unless the Commission otherwise directs, be deposited in a chartered bank at interest and,

R.S.O. 1970,
c. 470

- (a) may be invested in such securities as trustees may invest in under *The Trustee Act*; or
- (b) may, with the approval of the Commission, be expended in new construction or extensions or additions to the system.

Interest

(3) All earnings accruing from any part of the depreciation fund deposited or invested as provided in subsection 2 shall from time to time be carried to the credit of the depreciation fund. R.S.O. 1960, c. 394, s. 108.

109.—(1) A telephone system shall not issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof until it has obtained from the Commission an order authorizing the issue and the amount thereof and stating the purposes to which the issue or proceeds thereof are to be applied and that in the opinion of the Commission the money, property or labour to be procured or paid for by the issue of the stock, bonds, notes or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order.

Approval of
issue of
stock, bonds,
notes, etc.

(2) Every officer of a system who wilfully authorizes or permits any contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence. R.S.O. 1960, c. 394, s. 109.

Offence

110.—(1) Every person who uses or interferes with or permits to be used or interfered with any telephone instrument, wiring or other equipment so as to injure or damage it or prevent the proper use of the circuit to which the telephone instrument, wiring or other equipment is connected is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence.

Prohibition
against
interference
with
instruments

(2) Every officer of a telephone system who wilfully authorizes or permits any contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence. R.S.O. 1960, c. 394, s. 110.

Idem

111. Every operator or other person in the employ of a telephone system who divulges the purport or substance of any telephone conversation or message passing over the lines of the system, except when lawfully authorized or directed so to do, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 111.

Employees
divulging
conversations

112. Every person who, having acquired knowledge of any conversation or message passing over any telephone line not addressed to or intended for such person, divulges the purport or substance of the conversation or message, except when lawfully authorized or directed so to do, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 112.

Persons
other than
employees
divulging
conversations

113. Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, uses indecent, obscene, blasphemous or

Using
obscene
language

grossly insulting language is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 113.

Refusal to
give up line

114. Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, refuses to give up or permit the use of the line when requested so to do by the operator or by any other person in case of a fire, accident, sickness or other similar emergency is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 114.

Annual
returns

115.—(1) Every telephone system shall, on or before the 1st day of April in each year or, in the case of any one or more systems, at such later time in any year as the Commission approves, furnish to the Commission a return containing such particulars respecting the cost, receipts, expenditures, operation, management and equipment of the system as the Commission requires.

Offence

(2) Every officer of a system who authorizes or acquiesces in any default in making a return under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day during which the default continues. R.S.O. 1960, c. 394, s. 115.

R.S.O. 1970,
c. 52,
not to apply

116. *The Bulk Sales Act* does not apply to the sale of a telephone system or a part thereof under this Act. R.S.O. 1960, c. 394, s. 116.

Interpre-
tation

117.—(1) In this section, "communication service" means any form of communication by electrical currents or impulses conducted by wires, cables or radio, other than telephone service.

Municipality
may provide
communication
service

(2) Where a communication service may be conveniently provided in conjunction with telephone service and all provisions of any Act of the Legislature or the Parliament of Canada respecting such communication service have been complied with,

- (a) the council of a municipality that is carrying on a telephone system as a public utility; or
- (b) the council of an initiating municipality or the commissioners of a municipal telephone system, as the case may be,

may, with the approval of the Commission, provide the communication service as part of the telephone system.

(3) Where approval of the Commission has been given under subsection 2,

By-law
authorizing
work and
issue of
debentures

- (a) the council of a municipality that is carrying on a telephone system as a public utility may, with the prior approval of the Board, pass a by-law authorizing the work and the issuing of debentures for that purpose but such a by-law is not valid until it has received the assent of the electors qualified to vote on money by-laws under *The Municipal Act*; or

R.S.O. 1970,
c. 284

- (b) the council of an initiating municipality may, with the prior approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and with the prior approval of the Board, pass a by-law authorizing the work and the issuing of debentures for that purpose and it is not necessary that the by-law be submitted for the assent of the electors.

(4) The Board shall determine the period within which the debentures to be issued shall be made payable and, in the case of a by-law made under clause *b* of subsection 3, the landowners who shall defray the cost of such works and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest.

How cost
paid

(5) The provisions of this Act as to debentures apply to debentures issued under this section. 1970, c. 34, s. 1.

Provisions
of Act
to apply
